

REMARKS

Claims 1 and 3-21 are all the claims pending in the application. Claims 1, 11, 13, 14, 16 and 21 are amended.

Applicant's amendment is made in the light of the Examiner's suggestion in the Advisory Action dated March 12, 2009.

In particular, the Examiner advised that the request for reconsideration has been considered but does not place the application in condition for allowance because the amendments to the claims raise certain issues and stated:

"The applicant's argument with respect to claim 1 is mere speculation based on a condition which may or may not occurs via the language "in the event" on line 8. Given the broadest reasonable interpretation, applicant's argument regarding claim 1 has been address in the previous office Action."

Applicants have amended the claims to make the condition definite, during a partial flushing operation, and are filing an RCE to permit entry of this narrowing amendment.

Applicants respectfully submit that the claims are allowable for the following reasons, as now supported by the new narrower language.

Claim Rejections - 35 USC § 102

Claims 1, 3, 5-12, and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin as set forth in the previous office action. This rejection is traversed for at least the following reasons.

Full Flush/Inoperative Position

On page 2, section 1 of the Office Action the Examiner states that:

Nowhere in claim 1 does the language "In the event of a full flushing, the power-loaded part remains in an inoperative position". Applicants have amended the claim to specify this condition.

No Premature Interruption

The Examiner asserts that section 1, col. 2, line 30 et seq. of Martin teaches that the system has a flush action and it is time control to shut off; hence, the flushing process is prematurely interrupted. Applicants respectfully submit that this clearly is not correct.

In that passage it is stated, that flush commences simultaneously with manual depression of the flush valve actuator and is time controlled so as to produce a prolonged high energy surge of water which carries bowl waste into the sewer. Only the time of the flush is controlled but not the amount. And clearly it is not disclosed nor suggested to that the flush is prematurely interrupted. The water in the water vessel is always substantially evacuated. There is no possibility to interrupt the flushing. It is only possible to control the time of evacuation.

Dual Flush

In section 1 of the Office Action, the Examiner further states that “the claims never call for a dual flush, as argued by the applicant.”

However, claim 1 now is amended to state the existence of two flushing processes, representing a dual flush.

Claim Rejections - 35 USC § 103

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Fish as set forth in the previous office action. This rejection is traversed for at least the following reasons.

This claim would be patentable for reasons previously given, and in view of the dependency of the claim from claim 1. Fish is not cited to, and does not remedy the deficiencies of Martin with regard to claim 1.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Kartoleksono as set forth in the previous office action. This rejection is traversed for at least the following reasons.

This claim would be patentable for reasons previously given, and in view of the dependency of the claim from claim 1. Kartoleksono does not remedy the deficiencies of Martin or the other cited references.

Rejoinder of Claims

Applicants respectfully submit that, on the basis of the allowability of amended claim 1, the withdrawn claims that depend therefrom should be rejoined and allowed. Thus, all of claims 1 and 3-21 should be allowed.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Alan J. Kasper/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Alan J. Kasper
Registration No. 25,426

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: June 24, 2009